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October 11, 2022

MEMO ENDORSED.

BY ECF

Hon. Ona T. Wang
500 Pearl Street
New York, New York 10007

**Re: *SS&C Technologies Holdings, Inc. and Advent Software Inc. v. Arcesium LLC*,
No. 1:22-cv-02009-VEC-OTW – Letter Motion to Seal**

Dear Judge Wang:

Plaintiffs SS&C Technologies Holdings, Inc. and Advent Software, Inc. (collectively, “SS&C”) and Defendant Arcesium LLC (collectively, the “Parties”), jointly and respectfully submit this request to file under seal an exhibit to the Joint Agenda for the October 18 Discovery Conference (the “Agenda”).

Plaintiffs commenced this action on March 10, 2022 alleging misappropriation of trade secrets, breach of contract, unfair competition, and breach of the covenant of good faith and fair dealing. The Agenda contains references to a document produced and designated as highly confidential, outside counsel and experts’ eyes only by SS&C, and encloses this document as an exhibit.

While a presumption of public access applies to judicial documents, *e.g.*, documents relevant to the performance of the judicial function and useful in the judicial process, the weight of the presumption is “governed by the role of the material at issue” and the resulting value of such information to the public. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). Courts must also balance against the weight of the presumption any countervailing factors such as “the privacy interests of those resisting disclosure” including “the degree to which the subject matter is traditionally considered private rather than public” and the “nature and degree of injury” resulting from disclosure. *Id.* at 120.

Here, the exhibit to the Agenda contains information that SS&C has designated highly confidential under the Protective Order. This includes highly confidential commercial information concerning SS&C’s software development strategies, including but not limited to development of proprietary technologies, which was prepared in response for Arcesium’s request for further specificity of the trade secrets described in the Amended Complaint. This type of information is regularly deemed protected because disclosure “might harm a litigant’s competitive standing.” *In re Parmalat Sec. Litig.*, 258 F.R.D. 236, 244 (S.D.N.Y. 2009) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); *Dodona I, LLC v. Goldman, Sachs & Co.*, 119 F. Supp. 3d 152, 166 (S.D.N.Y. 2015). Indeed, Judge Caproni previously granted the Parties’ request to redact similar information from the FAC. *See* ECF No. 38.

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Accordingly, the Parties respectfully submit this request to file the exhibit to the Agenda under seal.

Respectfully submitted,

/s/ Stephen Fishbein

Stephen Fishbein

cc: Counsel of record for Arcesium (via ECF)

Application **GRANTED**. The Clerk of Court is respectfully directed to close ECF 91.

SO ORDERED.



Ona T. Wang
U.S.M.J.

10/13/22